

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 * * *

4 HAROLD D HARDEN,

Case No. 2:17-cv-01381-APG-NJK

5 Plaintiff,

ORDER

6 v.

7 NDOC EDUCATION ESP,

Defendants.

8 This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former
9 state prisoner. On April 20, 2018, Magistrate Judge Koppe ordered the plaintiff to file his updated
10 address with the Court within 30 days. ECF No. 3 at 2. The 30-day period has now expired, and
11 the plaintiff has not filed his updated address or otherwise responded to Judge Koppe's order.

12 District courts have the inherent power to control their dockets and "[i]n the exercise of
13 that power, they may impose sanctions including, where appropriate . . . dismissal" of a case.
14 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
15 dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey
16 a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th
17 Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-
18 61 (9th Cir. 1992) (dismissal for failure to comply with an order requiring amendment of
19 complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply
20 with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*
21 *Service*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order);
22 *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
23 failure to comply with local rules).

24 In determining whether to dismiss an action for lack of prosecution, failure to obey a court
25 order, or failure to comply with local rules, the court must consider several factors: (1) the public's
26 interest in expeditious resolution of litigation; (2) the court's need to manage its docket; (3) the
27 risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their
28 merits; and (5) the availability of less drastic alternatives. *Thompson*, 782 F.2d at 831; *Henderson*,

1 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at
2 53.

3 Here, the first two factors—the public’s interest in expeditiously resolving this litigation
4 and the Court’s interest in managing the docket—weigh in favor of dismissal. The third factor—
5 risk of prejudice to Defendants—also weighs in favor of dismissal, since a presumption of injury
6 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
7 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
8 factor—public policy favoring disposition of cases on their merits—is greatly outweighed by the
9 factors in favor of dismissal discussed herein. Finally, a court’s warning to a party that his failure
10 to obey an order will result in dismissal satisfies the “consideration of alternatives” requirement.
11 *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d at 1424. Judge
12 Koppe’s order requiring the plaintiff to file his updated address within 30 days expressly stated:
13 “It is further ordered that, if Plaintiff fails to timely comply with this order, the Court shall dismiss
14 this case without prejudice.” ECF No. 3 at 2. Thus, the plaintiff had adequate warning that
15 dismissal would result from his noncompliance with Judge Koppe’s order to file his updated
16 address.

17 It is therefore ordered that this action is dismissed without prejudice based on the plaintiff’s
18 failure to file an updated address in compliance with Magistrate Judge Koppe’s April 20, 2018
19 order. The plaintiff’s application to proceed *in forma pauperis* (**ECF No. 1**) is **denied as moot**.
20 It is further ordered that the Clerk of Court shall enter judgment accordingly.

21 DATED THIS 29th day of May, 2018.

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23 UNITED STATES DISTRICT JUDGE
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